IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 567 of 1988

with

CIVIL APPLICATION NO.2478 OF 2001
IN
CIVIL REVISION APPLICATION No 567 of 1988

with

CIVIL REVISION APPLICATION No 280 of 1989

For Approval and Signature:

Hon'ble MR.JUSTICE R.P.DHOLAKIA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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JAYANTILAL POPATLAL THAKKAR DECD, THRO: HIS HEIRS & L.RS.
Versus
SONI VARAJLAL PRABHULAL SINCE DECEASED THROUGH HEIR

Appearance:
1. Civil Revision Application No. 567 of 1988
MR DU SHAH for Petitioner No. 1-1/2
MR JR NANAVATI for Respondent No. 1
..... for Respondent No. 1/1

2. Civil Application No.2478 of 2001
MR JR NANAVATI FOR applicants

MR DU SHAH for opponents

3. Civil Revision Application No. 280 of 1989
MR JR NANAVATI for Petitioner No. 1-1/1
MR DU SHAH for Respondent No. 1-1/2

CORAM : MR.JUSTICE R.P.DHOLAKIA

Date of decision: 17/08/2001

COMMON ORAL JUDGEMENT

Learned counsel for the petitioner, Mr.D.U.Shah is not present since last so many adjournments while learned counsel for the respondent, Mr.J.R.Nanavati is remaining present. One Smt.Savitaben Vrajlal is present along with her son Chandrakant Vrajlal.

2. Smt.Savitaben has stated at the bar that she is an old lady and this matter was admitted by this Court in the year 1988 and matter was being adjourned from time to time. Since last one year, she along with her son was attending the Court for more than 38 times. But her matter could not be proceeded further. She has requested that the matter be heard and disposed of accordingly.

3. In this matter, rule was issued vide order dated 1-8-1988 along with the order of stay. Thereafter, matter was adjourned from time to time. On 24-11-2000, a common order was passed in C.R.A. No.567/88 and C.R.A. No.280/89 by this Court (Coram: Y.B.Bhatt,J.) which reads as under:

"Learned counsel for the petitioner in the First CRA has constantly sought time on various grounds since this matter was placed on the special final hearing board of Friday 10th November. Today, he has filed a sick note while the Court is informed that he is out of town. This matter is, therefore, adjourned to 1st December, 2000 with the observation that no further adjournment shall be granted on any ground whatsoever."

4. Thereafter also, matter was adjourned from time to time. On 16-2-2001, Civil Application No.2478 of 2001 was filed in Civil Revision Appln. No.567 of 1988 for dismissing the main matter, i.e. Civil Revn.

Appln.No.567 of 1988 as infructuous as the heirs and legal representatives of the deceased-Jayantilal Popatlal, who are joined in the Civil Revision Application, are not doing the business at the premises in question. Therefore, they are not the tenants within the meaning of the Bombay Rent Act and hence this revision abates as the heirs and legal representatives of the deceased-Jayantilal Popatlal have no right to proceed with the revision.

5. This Court (Coram: K.R.Vyas, J.) vide order dated 5-3-2001 passed the following order in said Civil Application No.2478 of 2001:

> "It is stated by Mr.J.R.Nanavati that the main CRA is fixed on 16-3-2001. Hence this application be heard with main C.R.A. on 16-3-2001."

Thereafter, following order was passed by me vide order dated 26-6-2001 in Civil Application No.2478 of 2001:

> "Since last 2-3 adjournments, ld. counsel for the applicant, Mr.D.U.Shah is submitting leave notes and, hence, this Court is adjourning the matter with a hope that he will make some alternative arrangements on the next date. S.O. to 3-7-2001."

6. The matter was adjourned thereafter also on many occasions. However, no alternative arrangement was made by the learned advocate for the applicant. This Court cannot wait for indefinite time for the presence of advocate. Looking to the peculiar circumstances of the case and in the fitness of things without observing further in the matter, I am of the opinion that it is a fit case wherein this Civil Revision Application is required to be dismissed for want of prosecution.

7. This Civil Revision Application is dismissed for want of prosecution. Rule is discharged. Stay granted earlier stands vacated forthwith.

8. In view of the aforesaid judgment and order of dismissal passed in Civil Revision Application No.567 of 1988, Civil Application No.2478 of 2001 does not survive and is disposed of accordingly.

9. Pursuant to the aforesaid judgment and order of dismissal for default passed in Civil Revision Application No.567 of 1988, learned counsel for the petitioners has stated at the bar that Civil Revision

Application No.280 of 1989 has become infructuous and hence, the same be disposed of accordingly.

10. In view of the above statement made by the learned counsel for the petitioners, Civil Revision Application No.280 of 1989 stands disposed of as infructuous. Rule discharged. Liberty to revive in case of difficulty.

(R.P.DHOLAKIA,J.)
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